HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.103 of 2007

Between:

Gaddam Janardhan and eleven others
... Appellants

And

The Mandal Revenue Officer, Keesara Mandal,
Ranga Reddy District and another
...
Respondents

::JUDGMENT::

Counsel for the appellants : Shri K. Vasudeva Reddy

Counsel for the respondents : Assistant Government
Pleader for Revenue

February 01, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 2-1-2007 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellants for restraining the respondents from demolishing the houses constructed by them on the land forming part of Survey Nos.586/123, Saipuri Colony, Nagaram Village, Dommaiguda Gram Panchayat, Keesara Mandal, Ranga Reddy District.

The appellants purchased the land in question

from the original owner through registered sale deeds. The particulars of the parcels of land and registered sale deeds are as under:

S.No.	Name	Regd. No.	Date	Extent (SY)	Office
1.	Gaddam Janardhan	3580	30-10-1999	235	Sub-Registrar, Shamirpet Mandal
2.	Gaddam Rakesh Babu	4135	01-12-1999	191.06	-do-
3.	Gaddam Rahul Babu	4134	01-12-1999	191.06	-do-
4.	Smt.D. Bramarambha	1823	24-07-1998	452	-do-
5.	Smt. R. Vijaya Lakshmi	1443	27-05-1998	475.32	-do-
6.	P.Ageshwar	597	18-12-2000	475.32	-do-
7.	Smt.A. Suvarna	3582	30-10-1999	235	-do-
8.	Smt.A. Mounika	4133	01-12-1999	200	-do-
9.	Beemunipati Peeraiah	4127	01-12-1999	214	-do-
10.	Ginna Sudhaker	598	18-12-2000	214.66	-do-
11.	T.S. Sudhakar	2114	29-06-1999	214.66	-do-
12.	R. Seetharama Raju	36	05-01-1998	215.28	-do-

The appellants constructed houses about four to five years ago and have been paying property tax to Dommaiguda Gram Panchayat. They filed the writ petition by alleging that on 16-12-2006, Mandal Revenue Officer, Keesara Mandal (respondent No.1) came to the site with police force and heavy machinery and resorted to demolition of their houses. However, he could not do so due to the resistance of the people. The

appellants pleaded that the action taken by respondent No.1 is violative of Article 300-A of the Constitution and they cannot be deprived of their property without complying with the rules of natural justice and following the procedure established by law.

The learned Single Judge did not issue formal notice to the respondents requiring them to file counter to the assertions contained in the affidavit of appellant No. 6 – Shri P. Ageshwar and dismissed the writ petition only on the basis of oral statement made by the learned Assistant Government Pleader that the writ petitioners had purchased the land in violation of the provisions contained in the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the 1977 Act') and respondent No.1 had issued notices to them before taking steps for demolition of the houses.

With the consent of the learned counsel for the parties, we have heard the arguments and are disposing of the main appeal.

A perusal of the affidavit of appellant No.6 and documents filed with the writ petition shows that the appellants had purchased different parcels of land during 1998 and 2000 through registered sale deeds and constructed houses four to five years ago. It is also borne out from record that the appellants have been paying property tax to Dommaiguda Gram Panchayat. In paragraph 4 of his affidavit, appellant No.6 categorically averred that pattadar passbooks and title deeds were issued in favour of their vendors and, in the

revenue records, the land in question is recorded as patta land. In paragraph 6, the deponent averred that respondent No. 1 threatened to demolish their properties on 16-12-2006 by use of force, but he had to retreat on account of hue and cry raised by the residents. Still further, the deponent averred that the petitioners are being deprived of their property without following the procedure established by law and in clear violation of the right guaranteed to them under Article 300-A of the Constitution.

In our opinion, the learned Single Judge could not have dismissed the writ petition summarily only on the basis of the oral statement made by the learned Assistant Government Pleader that the writ petitioners had purchased the land in violation of the provisions of the 1977 Act and notices were issued to them before taking action for demolition of their houses. The question whether the appellants had purchased the land in violation of the provisions of the 1977 Act could have been decided by respondent No.1 only after issuing notice and giving them opportunity to show cause against the action proposed to be taken. However, the fact of the matter is that the respondents were not called upon by the learned Single Judge to controvert the averments contained in the affidavit of appellant No.6 or to produce evidence to prove that the competent authority had issued notices to the appellants under Section 3 of the 1977 Act or any other notice proposing to nullify the sale transactions.

Therefore, there is no escape from the conclusion that the action taken by respondent No.1 for demolition of the houses of the appellants is vitiated due to violation of Article 300-A of the Constitution of India and the rules of natural justice. It hardly needs reiteration that the appellants had purchased the land in respect of which patta had been granted to the owner and the same was recorded 'patta land' in the revenue records. Not only this, the appellants had constructed houses on the land in question. This being the factual position, the appellants could not have been deprived of their property right without following the due process of law and without complying with the rules of natural justice. If the competent authority thought that the transactions through which the appellants had purchased the sites were violative of the provisions of the 1977 Act, then it should have given them notice and pass appropriate order (s) after giving them reasonable opportunity of hearing. However, the fact of the mater is that no notice was given to any of the appellants under Section 3 of the 1977 Act and, on that account, none of them could represent his cause against the proposed cancellation of the sale or their dispossession.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. As a sequel to this, the writ petition filed by the appellants is allowed and the respondents are restrained from demolishing their houses or dispossessing them. However, it is made clear that this order shall not preclude the competent

authority from initiating proceedings under the 1977 Act and pass appropriate order after giving the appellants reasonable opportunity of hearing.

As a sequel to disposal of the appeal, WAMP No.168 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

February 01, 2007

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